

**AMENDMENTS TO THE DRAWINGS:**

Attached are nine (9) sheets of formal drawings.

## **REMARKS**

### **FORMAL MATTERS:**

Claims 1, 4-6, 9-13 and 28 are pending after entry of the amendments set forth herein.

Claims 2, 3, 7, 8, 14-27 and 29-33 are canceled without prejudice.

Claims 1, 4-6 and 9-13 are amended.

The claim amendments have been made in order to consistently refer to the “safe position, ready position and triggering position” throughout the claims as suggested by the Examiner. These terms are used in the specification and as such fully supported within the originally filed application. It being pointed out that at times the terms are referred to differently such as having a first, second and third position or a first safe state a second ready state and delivery state. However, applicants agree with the Examiner that for purposes of clarity the claims should be amended to use the same terminology in each of the claims. A terminology has been chosen which is believed to clearly represent the actual positions of the device claimed.

No new matter is added.

### **RESTRICTION REQUIREMENT**

In response to the Restriction Requirement the non-elected claims have been canceled from the application without prejudice. Applicants reserve the right to file a divisional application directed to the invention encompassed by the non-elected claims as well as any other invention disclosed and described within this application.

### **INFORMATION DISCLOSURE STATEMENT**

The Information Disclosure Statement previously submitted was objected to. Applicants have attached an Information Disclosure Statement which is believed to comply with USPTO rules thereby overcoming this objection.

### **DRAWINGS**

In response to the Examiner’s objections to the drawings a new set of Figures is attached and labeled as “Substitute Sheets.” The new set of Figures includes a new Figure 9. Figure 9 is identical to

Figure 3 except that the block 38 is labeled as the button 42 as described in the specification in original paragraph [0044].

#### **SPECIFICATION OBJECTIONS**

The specification was objected to based on the Abstract of the Disclosure. Applicants have amended the Abstract to submit a new Abstract which is believed to be in compliance with the MPEP.

In view of the Examiner's objection to claim 10 relating to the "button" a new Figure 9 has been added. New Figure 9 is described in the specification in the Brief Description of the Drawings section. Original paragraph [0044] has been amended to refer to the new Figure 9 and the button now labeled as a button 42.

#### **CLAIM OBJECTIONS**

Claims 1 and 13 were objected to. The objections raised by the Examiner appear to be correct. Accordingly, the claims have been amended to overcome these objections.

#### **REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

Claims 1-6, 9-13, 18 and 19 were rejected under 35 U.S.C. §112, second paragraph.

Without acquiescing to the rejection applicants wish to expedite prosecution and have amended the claims in accordance with the Examiner's suggestions. Specifically, all of the claims have been amended to refer to the "safe position", "ready position", and "triggering position." Claim 6 has been amended to provide for a proper antecedent basis for the term "collar".

Claims 9 and 10 have been made dependent on claim 5 which positively recites the lever thereby providing an antecedent basis for this term in claims 9 and 10.

#### **REJECTION UNDER 35 U.S.C. §103**

The claims 1-4, 6, 9-12, 18, 19 and 28 were rejected under 35 U.S.C. §103 as unpatentable over the combination of Parsons in view of Knauer. The rejection is traversed as applied and as it might be applied to the presently pending claims.

The rejection appears to recognize that Parsons does not disclose a cap. Claim 1 is the only remaining independent claim and claim 1 positively recites the cap as a structure covering the injection

orifice of the injector. Further, claim 1 specifically indicates that the cap is positioned such that the cap must be removed before the injector is placed in the triggering position.

In support of the rejection Knauer is cited for its use of a cap. However, the cap within Knauer is not positioned such that the cap must be removed before the injector is placed in the triggering position. In Knauer the cap is used to cover a needle and is not relevant with respect to the operation of the injector. More importantly, even though Knauer shows a cap 302 within Figure 3 the Knauer device is not a needleless injector as claimed by applicant and as is shown within Parson. The cap used by Knauer is used to prevent the patient from being stuck with the needle 201.

Because Knauer uses the cap for a different purpose (prevent needle sticking) it would not be obvious for one of ordinary skill in the art to combine the cap of Knauer with Parson or the present invention in that neither Parson or the present invention use a needle. Knauer is using the cap only because the needle is present. A needle-free injection device as claimed by applicant does not require a cap in order to safeguard against being stuck with a needle.

In accordance with the present invention the cap can serve a number of different purposes. As indicated within amended claim 1 the cap is positioned such that the cap must be removed before the injector is placed in the triggering position. Thus, in accordance with applicants' invention the cap must be removed before the safeties are released. Thus, in accordance with applicants' invention the cap is first removed followed by releasing the safety or safety devices because if the safety devices are first released then removing the cap could result in an accidental firing of the device. This is not a consideration in connection with the devices disclosed within either Parsons or Knauer.

#### CONCLUSION

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number ZGNX-112.

Respectfully submitted,  
BOZICEVIC, FIELD & FRANCIS LLP



Date: 23 October 2009

By: \_\_\_\_\_

Karl Bozicevic  
Registration No. 28,807

BOZICEVIC, FIELD & FRANCIS LLP  
1900 University Avenue, Suite 200  
East Palo Alto, California 94303  
Telephone: (650) 327-3400  
Facsimile: (650) 327-3231